IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1533 OF 2006

Karuna Vasudev Sonthalia ...Petitioner

Versus

Municipal Corporation of Greater Mumbai and ors. ...Respondents

Mrs. N.V. Sanglikar for the petitioner.

Mr. K.K. Singhvi, Senior Advocate, with Mrs. P.A. Purandare, for respondent Nos. 1 to 3.

Mr. A.S. Sayed, Assistant Government Pleader, for respondent No. 4.

Mr. S.C. Jodhawat for respondent Nos. 5 and 6.

CORAM: **J.N. PATEL, Ag. C.J.,** &
V.C. DAGA, J.
DATE: **MARCH 14, 2007**.

P.C.

The petitioner was required to approach this Court being aggrieved by the notice dated 15th May, 2006, issued by respondent No.1-Corporation under Section 53 (6) of the Maharashtra Regional and Town Planning Act, 1966 ("the Act") and having threatened to take action under Section 53 (7) of the said Act.

2. The petitioner has invited such an action by the respondent-Corporation as the petitioner was using the garage for the purpose other than parking i.e. conducting a tailoring business in Garage No.7, ground floor of Everest Building, Mount Everest Co-operative Housing Society, Peddar Road, Mumbai-400 026.

3. In the course of hearing of the petition for admission, the petitioner volunteered to give an undertaking to this Court that she would discontinue her business of tailoring for which she wants some time as that is the only source of her livelihood and she being a senior citizen, she will have to make alternate arrangements plus settle the dues of the employees working for her and would not agitate the issue any further.

4. The learned counsel for the Municipal Corporation submitted that if the Court shows indulgence in such cases, it would be difficult for the Corporation to regulate change of user of the premises particularly garages and its exploitation for commercial purposes as the City of Mumbai faces parking problem. The Corporation also undertook an exercise to detect such change of user though after a long time and detected 37 cases of similar violation in the zone and propose to

initiate action. It is pertinent to note that they did not take action against the petitioner for 15 years or more.

5. In the peculiar facts and circumstances of the case, we are inclined to permit the petitioner to wind up her tailoring business from Garage No.7 of Everest Building, Mount Everest Co-operative Housing Society, in terms of the undertaking tendered before this Court, which is taken on record and marked "X" for identification. In view of this undertaking, nothing survives in the petition. In case the petitioner discontinues her business in terms of the undertaking on or before 31st March, 2008, the respondent-Corporation would not proceed to take action as contemplated under the impugned notice against her for the alleged breach/violation. But on failure of the petitioner to comply with the undertaking, in addition to this Court initiating action against her for committing breach of the undertaking, the respondent-Corporation would be at liberty to proceed further in the matter and take appropriate action in accordance with law.

6. Petition stands disposed of accordingly with no order as to costs.

ACTING CHIEF JUSTICE

V.C. DAGA, J.